

Kenneth W. Starr (S.B.N. 58382)
James W. Shannon Jr. (S.B.N. 232039)
Tracy Kathryn Genesen (S.B.N. 159324)
KIRKLAND & ELLIS LLP
555 California Street
San Francisco, California 94104-1501
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KNIGHTSBRIDGE WINE SHOPPE, LTD., ET
AL.,

Plaintiff,

vs.

JERRY R. JOLLY, IN HIS CAPACITY AS
DIRECTOR OF THE CALIFORNIA
DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL,

Defendant.

Case No. 5:06-CV-02890-JF

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT;
NOTICE OF AUTHORIZATION TO
EXTEND STAY OF PROCEEDINGS;
AND ~~PROPOSED~~ ORDER CONTINUING CMC**

Date: 12/21/2007
Time: 10:30 a.m.
Courtroom: 3
Judge: Hon. Jeremy Fogel

1 This case arises out of the Supreme Court's decision in *Granholm v. Heald*, (2005) 544
 2 U.S.460. In *Granholm*, the Supreme Court held that certain state statutes prohibiting out-of-state
 3 wineries from shipping directly to in-state consumers, but permitting in-state wineries to do so if
 4 licensed, discriminated against interstate commerce in violation of the Commerce Clause of the
 5 United States Constitution (U.S. Const., art. I, §6). The question presented here is whether, in light
 6 of the principles set forth in *Granholm*, the California statutory scheme regulating out-of state wine
 7 retailers violates the Commerce Clause.

8 Pursuant to Section III.1. of the Stipulation, Agreement, and Order entered on November 15,
 9 2006 ("Stipulation"), proceedings in this action were stayed by the Court in order to allow the
 10 Specialty Wine Retailers Association to pursue legislative action during the 2007-2008 session of
 11 the California Legislature to amend the ABC Act to grant all retail licensees in other States the right
 12 to sell and ship wine directly from their premises to adult California residents (hereafter referred to
 13 as "permit legislation"). Section III.1. of the Stipulation further provides, in relevant part, that this
 14 stay "shall remain in effect" until:

15 *"e. December 31, 2007; except that this date shall be extended as provided in Section II.3.c.*
 16 *if, by no later than December 31, 2007, the Parties have jointly filed a notice with this*
 17 *Court authorizing such extension."*

18 Section II.3. of the Stipulation, in turn provides that Section II.1., which sets forth
 19 Defendant's agreement to "continue to exercise its prosecutorial discretion" not to take any
 20 enforcement action under Cal. Bus. & Prof. Code Sections 23300, 23661, or 23661.2 against out-of-
 21 state retail licensees for selling and shipping wine for personal use and not for resale directly to adult
 22 California residents, "will remain in effect" until:

23 *"c. December 31, 2007; except that if ... the Specialty Wine Retailers Association ... has ...*
 24 *engaged in good faith efforts to secure the enactment of [permit] legislation ... then this date shall be*
 25 *extended until the last day on which legislation passed during the second year of the 2007-2008*
 26 *biennial session [of the California Legislature] could become law under the [State] Constitution ...*
 27 *or December 31, 2008...."*

28 Unfortunately, no such legislation will be enacted by December 31,2007. However, in light

1 of Specialty Wine Retailer's on-going good faith efforts to secure "permit legislation," the parties
2 wish to invoke the "extension option" set forth in Section II .3.c.

3 Therefore, the Parties hereby authorize extension of the December 31, 2007 date set for
4 expiration of the stay of proceedings in this action pursuant to Section III.1.e. of the Stipulation to
5 December 31, 2008 and further stipulate and agree that the December 31, 2007 date set pursuant to
6 Section II.3.c. of the Stipulation for expiration of the agreement set forth in Section II.1. shall
7 likewise be extended to December 31, 2008, effective as of the date of entry of the proposed order
8 set forth below.

9
10 Dated: December 7, 2007

Kenneth W. Starr
James Shannon
Tracy K. Genesen
KIRKLAND & ELLIS LLP

11
12
13 By: s/ Tracy Kathryn Genesen
14 Tracy Kathryn Genesen

15 ATTORNEYS FOR PLAINTIFFS

16 Dated: December 7, 2007

EDMUND G. BROWN JR.
Attorney General of the State of California
JACOB APPELSMITH
Senior Assistant Attorney General
FIEL D. TIGNO
Supervising Deputy Attorney General

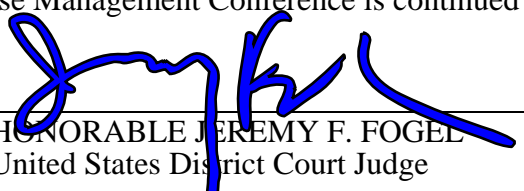
17
18
19
20 By: s/ Marjorie E. Cox
21 Marjorie E. Cox
22 Deputy Attorney General

23 ATTORNEYS FOR DEFENDANT
24
25
26
27
28

[PROPOSED ORDER]

The December 27, 2007 date for expiration of the stay of proceedings in this action set forth in Section III.1.e. of the Stipulation, Agreement and Order entered in this action on November 15, 2006 is hereby extended to December 31, 2008. Case Management Conference is continued to January 9, 2009 at 10:30 AM.

DATE: 12/13/07


HONORABLE JEREMY F. FOGEL
United States District Court Judge